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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,122	11/13/2006	Jani Vare	886A.0015.U1(US)	4094
29683 7590 06/05/2009 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			EXAMINER PATHAK, SUDHANSHU C	
			ART UNIT 2611	PAPER NUMBER
			MAIL DATE 06/05/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,122	<b>Applicant(s)</b> VARE ET AL.	
	<b>Examiner</b> SUDHANSHU C. PATHAK	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/23/2007 &amp; 09/23/2005</u> .                             | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Claims 1-25 are pending in the application.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 19-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 19-23 are directed to a signal, i.e., **a transmission parameter signaling data signal comprising**. Signals per se are non statutory invention and the claim or specification cannot be directed to a signal. In the instant case, the claim recites a signal and should be canceled. The specification and claims should be amended to exclude signals, carrier waves, internet messages, and the like.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Vare et al. (2006/0013153).

In regards to Claims 1 & 7, Vare discloses a method (receiver) of operating a receiver (Fig. 6), the method comprising: decoding transmission parameter information from a signal (Paragraph 26 lines 5-21 & Paragraphs 28-33 & Fig. 6, element 601 & Fig. 7, element 701); and determining from the decoded transmission parameter information if the signal carries time-sliced elementary streams (Fig. 6, element 602-603 & Fig. 7, element 702-703).

In regards to Claims 2 & 8, Vare discloses a method (receiver) of operating a receiver as described above. Vare further discloses disregarding the signal in the event of a negative determination (Fig. 7, element 706 & Paragraph 26, lines 16-22, 26-40 & Paragraph 76) {Interpretation: The reference discloses performing power saving only when the time slice identifier is determined otherwise disregarding the process}.

In regards to Claims 3, 12, 16, 18 & 20, Vare discloses a method (receiver) of operating a receiver as described above. Vare further discloses determining from the decoded transmission parameter information if the signal relates to an Internet Protocol data cast network (Paragraphs 29-32, 40, 47-48, 53-54).

In regards to Claims 4-5, 10-11, 14-15 & 21-23, Vare discloses a method (receiver) of operating a receiver as described above. Vare further discloses determining from the decoded transmission parameter information whether the signal has a different framing structure (Table 2) {Interpretation: The reference discloses a different frame structure i.e. burst duration and further the time slice version}.

In regards to Claims 6 & 9, Vare discloses a method (receiver) of operating a receiver as described above. Vare further discloses the transmission parameter on a lower level to form the signal (Paragraphs 29-33 & Paragraphs 53-54 & Paragraph 76) {Interpretation: The reference discloses the time slice identifier identifier is placed in the PSI/SI tables which is at a lower level}.

In regards to Claims 13 & 17, Vare discloses a method (apparatus) of forming a signal for transmission (Fig. 8), the method comprising: creating service information (Fig. 8, element 801 & Paragraph 76); creating transmission parameter information including an indication of whether the signal carries time-sliced elementary streams (Fig. 8, element 802 & Paragraph 76); and including the service information on one level with the transmission parameter on a lower level to form the signal (Paragraphs 29-33 & Paragraphs 53-54 & Paragraph 76) {Interpretation: The reference discloses the time slice identifier identifier is placed in the PSI/SI tables which is at a lower level}.

In regards to Claims 19 & 24-25, Vare discloses a transmission parameter signalling data signal (method/apparatus) (Paragraph 26 lines 5-21 & Paragraphs 28-33 & Fig. 6, element 601 & Fig. 7, element 701) comprising a predetermined number of data bits defined over consecutive orthogonal frequency division multiplex symbols (Paragraphs 25, 28-34 & Paragraph 53 & Claims 6, 8) {Interpretation: The reference discloses a DVB-T multicarrier transmission wherein this standard OFDM is inherent as is also in the instant application} the data signal comprising at a predetermined location a group of one or more information bits having a state

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dependent on whether a signal to which the data signal relates carries time-sliced elementary streams (Fig. 6, element 602-603 & Fig. 7, element 702-703 & Paragraph 28-33, 46, 48 & 53-54) {Interpretation: The reference discloses a time slice identifier which is interpreted as a information bits at a predetermined location place in the PSI/SI tables as is also in the instant application}.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUDHANSHU C. PATHAK whose telephone number is (571)272-5509. The examiner can normally be reached on 9am-5pm.  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh M. Fan can be reached on 571-272-3042.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sudhanshu C Pathak/  
Primary Examiner, Art Unit 2611